

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

**B. P. J., by her next friend and mother,
HEATHER JACKSON,**

Plaintiff,

v.

**CIVIL ACTION NO. 2:21-cv-00316
Judge Joseph R. Goodwin**

**WEST VIRGINIA STATE BOARD OF
EDUCATION, HARRISON COUNTY
BOARD OF EDUCATION, WEST
VIRGINIA SECONDARY SCHOOL
ACTIVITIES COMMISSION,
W. CLAYTON BURCH, in his official
Capacity as State Superintendent, DORA
STUTLER, in her official capacity as
Harrison County Superintendent, and
THE STATE OF WEST VIRGINIA,**

Defendants.

and LAINEY ARMISTEAD,

Intervenor Defendant.

**DEFENDANT STATE OF WEST VIRGINIA’S MOTION IN LIMINE
TO EXCLUDE OR LIMIT CERTAIN STATEMENTS OF
STATE SUPERINTENDENT BURCH AND RELATED PARTIES
(HEARSAY, RELEVANCE, AND LIMITATION PURSUANT TO FED. R. EVID. 105)**

Defendant, State of West Virginia (the “State”), pursuant to Fed. R. Evid. 801(c), 801(d)(2), 401, 402, and 105, respectfully moves for an order *in limine* to restrict Plaintiff from discussing in any opening statement or otherwise, or presenting statements, admissions, or stipulations of West Virginia Department of Education (“WVDE”), West Virginia State Board of Education (“State Board”), or State Superintendent Clayton Burch’s (“Superintendent Burch”) regarding H.B. 3293 (the “BOE Parties’ Statements”). The BOE Parties’ Statements are hearsay

and are not relevant to the validity and constitutionality of H.B. 3293. If such statements are admitted, the State moves for an order *in limine* to only allow them to be used as against the aforementioned parties.

Therefore, the State respectfully requests that its Motion *in Limine* be granted.

Respectfully submitted,

PATRICK MORRISEY

West Virginia Attorney General

/s/ Curtis R. A. Capehart

Douglas P. Buffington II (WV Bar # 8157)

Chief Deputy Attorney General

Curtis R.A. Capehart (WV Bar # 9876)

Deputy Attorney General

David C. Tryon (WV Bar #14145)

Deputy Solicitor General

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Counsel for Defendant, STATE OF WEST VIRGINIA

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CERTIFICATE OF SERVICE

I hereby certify that, on this 22nd day of June 2022, I electronically filed the foregoing Motion with the Clerk of Court and all parties using the CM/ECF System.

/s/ Curtis R. A. Capehart
Curtis R. A. Capehart